

2013 DRAFTING REQUEST

Bill

Received: 2/6/2014 Received By: eshea
Wanted: As time permits Same as LRB:
For: Chris Taylor (608) 266-5342 By/Representing: Herself
May Contact: Drafter: eshea
Subject: Children - abuse and neglect Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Taylor@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Counsel for adult expectant mother of unborn child in UCHIPS case

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	eshea 2/18/2014	jdyer 2/11/2014	rschlue 2/11/2014	_____	lparisi 2/11/2014		
/1		jdyer 2/18/2014	jfrantze 2/18/2014	_____	sbasford 2/18/2014	srose 2/21/2014	

FE Sent For:

→ Not
Needed

<END>

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/P1	eshea 2/7/2014	jdyer 2/11/2014	rschluet 2/11/2014	_____	lparisi 2/11/2014		

FE Sent For:

1 2/18 ju *JLQ* *St*
2/15

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/P1 eshea

Handwritten signatures and initials: P1, 3/11, jd, jd, and a large circular signature.

FE Sent For:

<END>

Shea, Elisabeth

From: Taylor, Chris
Sent: Thursday, February 06, 2014 3:05 PM
To: Shea, Elisabeth
Cc: Trost, Craig
Subject: drafting request

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Elisabeth,

Thanks for drafting the repeal.

Two other issues relating to the rights of pregnant women I would like drafted are:

1. Modifying 48.23 (2m)(a) to add "An adult expectant mother shall be represented by counsel, but may waive counsel if the court is satisfied that the waiver is knowingly and voluntarily made."
2. The attached resolution affirming the rights of pregnant women.



Thanks so much Elisabeth and please let me know if you have any questions! Chris



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-4223/P1

EHS:....

In 2/7/14

jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

DN

SOON

✓

Gen

1 AN ACT ...; relating to: legal representation for an adult expectant mother of an
2 unborn child who is alleged to be in need of protection or services.✓

Analysis by the Legislative Reference Bureau

Current law grants to the court assigned to exercise jurisdiction under the Children's Code (juvenile court)✓ jurisdiction over an unborn child alleged to be in need of protection or services that can be ordered by the juvenile court and whose expectant mother habitually lacks self-control✓ in the use of alcohol beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree, to the extent that there is a substantial risk that the physical health of the unborn child, and of the child when born, will be seriously affected or endangered unless the expectant mother receives prompt and adequate treatment for that habitual lack of self-control.✓ Current law also grants to the✓ juvenile court exclusive original jurisdiction over the expectant mother of such an unborn child, and permits the juvenile court to place an adult expectant mother outside her home under certain circumstances.✓

Under current law, if a petition alleging an unborn child of an adult expectant mother to be in need of protection or services is contested, the adult expectant mother may not be placed outside her home unless she is represented by counsel at the hearing at which the placement is made.✓ However, an adult expectant mother may waive counsel if the juvenile court is satisfied that the waiver is knowingly and voluntarily made.✓

This bill requires an adult expectant mother of an unborn child who is alleged to be in need of protection or services to be represented by counsel at all proceedings,✓

but may waive counsel if the juvenile court is satisfied that the waiver is knowingly and voluntarily made.✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 48.23 (2m) (b)✓ of the statutes is amended to read:

2 48.23 (2m) (b) If a petition under s. 48.133 is contested, no expectant mother
3 may be placed outside of her home unless the expectant mother is represented by
4 counsel at the fact-finding hearing and subsequent proceedings. If the petition is
5 not contested, the expectant mother may not be placed outside of her home unless
6 the expectant mother is represented by counsel at the hearing at which the
7 placement is made. An adult expectant mother, however, shall be represented by
8 counsel in a proceeding under s. 48.133,✓ but may waive counsel if the court is satisfied
9 that the waiver is knowingly and voluntarily made and the court may place the adult
10 expectant mother outside of her home even though the adult expectant mother was
11 not represented by counsel.✓

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292; 1999 a. 9, 149; 2001 a. 103; 2005 a. 344; 2009 a. 94.

12 (END)

d-note
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4223/P1dn

EHS:.....

date

JW

Representative Taylor:

*

In this draft, I deleted most of the language in the current s. 48.23 (2m) (b) because it relates to the specific proceedings at which and circumstances under which an adult expectant mother must be represented by counsel. Because this draft requires an adult expectant mother to be represented by counsel at all proceedings (unless waived), the narrower language is no longer necessary.✓

Let me know if you have any questions.✓

Elisabeth H. Shea
Legislative Attorney
Phone: (608) 266-5446
E-mail: elisabeth.shea@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4223/P1dn
EHS:jld:rs

February 11, 2014

Representative Taylor:

In this draft, I deleted most of the language in the current s. 48.23 (2m) (b) because it relates to the specific proceedings at which and circumstances under which an adult expectant mother must be represented by counsel. Because this draft requires an adult expectant mother to be represented by counsel at all proceedings (unless waived), the narrower language is no longer necessary.

Let me know if you have any questions.

Elisabeth H. Shea
Legislative Attorney
Phone: (608) 266-5446
E-mail: elisabeth.shea@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-4223/P1
EHS:jld:rs

In 2/18/14

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

800N

X

Regen

- 1 AN ACT *to amend* 48.23 (2m) (b) of the statutes; **relating to:** legal representation
- 2 for an adult expectant mother of an unborn child who is alleged to be in need
- 3 of protection or services.

Analysis by the Legislative Reference Bureau

Current law grants to the court assigned to exercise jurisdiction under the Children's Code (juvenile court) jurisdiction over an unborn child alleged to be in need of protection or services that can be ordered by the juvenile court and whose expectant mother habitually lacks self-control in the use of alcohol beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree, to the extent that there is a substantial risk that the physical health of the unborn child, and of the child when born, will be seriously affected or endangered unless the expectant mother receives prompt and adequate treatment for that habitual lack of self-control. Current law also grants to the juvenile court exclusive original jurisdiction over the expectant mother of such an unborn child, and permits the juvenile court to place an adult expectant mother outside her home under certain circumstances.

Under current law, if a petition alleging an unborn child of an adult expectant mother to be in need of protection or services is contested, the adult expectant mother may not be placed outside her home unless she is represented by counsel at the hearing at which the placement is made. However, an adult expectant mother may waive counsel if the juvenile court is satisfied that the waiver is knowingly and voluntarily made.

This bill requires an adult expectant mother of an unborn child who is alleged to be in need of protection or services to be represented by counsel at all proceedings,

but may waive counsel if the juvenile court is satisfied that the waiver is knowingly and voluntarily made.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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48.23 (2m) (b) If a petition under s. 48.133 is contested, ~~no expectant mother may be placed outside of her home unless the expectant mother is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the expectant mother may not be placed outside of her home unless the expectant mother is represented by counsel at the hearing at which the placement is made.~~ An adult expectant mother, ~~however,~~ shall be represented by counsel in a proceeding under s. 48.133, but may waive counsel if the court is satisfied that the waiver is knowingly and voluntarily made ~~and the court may place the adult expectant mother outside of her home even though the adult expectant mother was not represented by counsel.~~

(END)

Rose, Stefanie

From: Trost, Craig
Sent: Friday, February 21, 2014 2:41 PM
To: LRB.Legal
Subject: Draft Review: LRB -4223/1 Topic: Counsel for adult expectant mother of unborn child in UCHIPS case

Please Jacket LRB -4223/1 for the ASSEMBLY.